

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BANCROFT LIFE & CASUALTY ICC,
LTD.,

Plaintiff,

v.

FFD RESOURCES IV, LLC,

Defendant.

3:11-cv-00214-LRH-WGC

ORDER

FFD RESOURCES IV, LLC, and FFD
VENTURES, LP,

Counterclaim Plaintiffs,

v.

BANCROFT LIFE & CASUALTY ICC,
LTD.,

Counterclaim Defendant.

Before the court are three pending motions: first, Plaintiff/Counter-defendant Bancroft Life & Casualty ICC, Ltd.'s ("Bancroft") Motion to Dismiss Amended Counterclaims (#64¹), filed on January 24, 2012; second, Bancroft's Consented Motion for Extension of Time to File

¹Refers to court's docket entry number.

1 Supplemental Reply Brief (#80), filed on August 29, 2012; and third, Defendant/Counterclaimants
2 FFD Resources IV, LLC and FFD Ventures, LP's (collectively, "FFD") Motion for Leave to File
3 Supplemental Brief in Further Opposition to Bancroft's Motion to Dismiss the Amended
4 Counterclaims (#83), filed on August 31, 2012.

5 Bancroft's motion to dismiss FFD's amended counterclaims (#64) was fully briefed with
6 the filing of FFD's opposition (#68) and Bancroft's reply (#69). While the motion was pending,
7 however, orders issued in two different parallel actions in the Southern District of Texas prompted
8 Bancroft to file notices of these new authorities (##70, 75) and move for leave to file a
9 supplemental brief on the collateral estoppel effect of these related cases (#71). In response, FFD
10 moved for leave to file a responsive supplemental brief (#76). On August 13, 2012, The court
11 granted the parties' mutual request for supplemental briefing, including allowing Bancroft to file a
12 reply to FFD's response (#77). Accordingly, Bancroft promptly filed its supplemental brief on
13 collateral estoppel (#78), FFD filed its supplemental response (#79) on August 24, and Bancroft's
14 supplemental reply was due on August 31, 2012. On August 29, however, Bancroft filed its now-
15 pending unopposed motion to extend the deadline until September 7 (#80).

16 Also on August 29, 2012, FFD filed a notice (#82) that a motion for reconsideration had
17 been filed in one of the Texas cases. And on August 31, 2012, FFD filed its now-pending motion
18 for leave to file a supplemental brief in further opposition to Bancroft's pending motion to dismiss
19 the amended counterclaims (#83). The motion seeks further supplemental briefing on the issues of
20 estoppel and ratification in regard to the enforceability of the forum selection clause at issue here
21 based on new evidence revealed through discovery in yet another parallel action pending in the
22 Western District of Washington. (*Id.* at 2.)

23 It is well apparent that the arguments the parties wish to present in support or opposition to
24 Bancroft's original motion to dismiss FFD's amended counterclaims have expanded beyond the
25 scope of the parties' original briefing. It is also well apparent that continued supplemental briefing
26

1 will expand the record on this singular motion to dismiss well beyond reasonable lengths. *See* LR
2 7-4 (limiting motions and responses to 30 pages and replies to 20). At the same time, however, it is
3 in the interests of justice for the court to consider and resolve the parties' dispute based on all
4 pertinent arguments, evidence and authorities. Accordingly, in the interests of justice, judicial
5 economy and the orderly resolution of this action, the court shall deny all pending motions without
6 prejudice as to the refiling of a renewed motion to dismiss.

7 IT IS THEREFORE ORDERED that Bancroft's Motion to Dismiss Amended
8 Counterclaims (#64) is DENIED without prejudice.

9 IT IS FURTHER ORDERED that Bancroft's Consented Motion for Extension of Time for
10 Response to Supplemental Brief (#80) and FFD's Motion for Leave to file Supplemental Brief in
11 Further Opposition (#83) are DENIED as moot.

12 IT IS FURTHER ORDERED that Bancroft shall have thirty (30) days in which to file a
13 renewed motion to dismiss, FFD shall have twenty-one (21) days thereafter in which to file a
14 response, and Bancroft shall have fourteen (14) days thereafter in which to file a reply. All motions
15 shall conform to the page limits of Local Rule 7-4. No supplemental briefing shall be permitted
16 without leave of court.

17 IT IS SO ORDERED.

18 DATED this 5th day of September, 2012.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE